

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

GREGORY JOSEPH DOWNIE,)
ARTHUR WHITAKER,)
JEREMY WINTERS, and)
R. BROWN,)

Plaintiffs,)

v.)

Civil No. 23-cv-1684

ZAKEN, BUZAS, KAPOLKA, and)
FOWLER,)

Defendants.)

MEMORANDUM ORDER

This case was referred to United States Magistrate Judge Maureen P. Kelly for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1)(A) and (B), and Local Rule of Civil Procedure 72. On February 6, 2024, the Magistrate Judge issued a Report and Recommendation, recommending that this action be dismissed without prejudice, pursuant to Federal Rule of Civil Procedure 41(b), for failure to prosecute. ECF No. 4. A copy of the Report and Recommendation was mailed to each Plaintiff at his respective address of record, which, for all four Plaintiffs, was the State Correctional Institute at Greene. The Plaintiffs were informed that objections to the Report and Recommendation were due by February 23, 2024. None of the Plaintiffs filed objections. It is noted that, upon receipt of the Court's mailings at SCI-Greene, SCI-Greene personnel informed the Court that each of the Plaintiffs was no longer in the custody of the Department of Corrections. Thus, all four Plaintiffs have failed to maintain current addresses with the Court and all four have failed to communicate with the Court after their initial filing. Based on the above, and following thorough review of the filings of record,

the Court finds that the Magistrate Judge's recommendation to dismiss this action without prejudice is sound. Furthermore, the Court agrees with the Magistrate Judge's analysis of whether dismissal is an appropriate sanction under *Poulis v. State Farm Fire & Cas. Co.*, 747 F.2d 863 (3d Cir. 1984).

After a review of the pleadings and documents in this case, together with the Report and Recommendation, the following Order is entered.

ORDER

AND NOW, this 15th day of March 2024, it is ORDERED that the Report and Recommendation, ECF No.4, filed on February 6, 2024, is adopted as the Opinion of this Court.

IT IS FURTHER ORDERED that this case is DISMISSED without prejudice, for each Plaintiffs' failure to prosecute, pursuant to Federal Rule of Civil Procedure 41(b).

IT IS FINALLY ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if any Plaintiff desires to appeal from this Order, he must do so within thirty days by filing a notice of appeal as provided in Federal Rule of Appellate Procedure 3.

s/Marilyn J. Horan
Marilyn J. Horan
United States District Court Judge